



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Bergeron *et al.*

Appl. No.: 10/089,177

Filed: March 27, 2002

For: **Highly Conserved Genes and Their Use to Generate Species-Specific, Genus-Specific, Family-Specific, Group-Specific and Universal Nucleic Acid Probes and Amplification Primers to Rapidly Detect and Identify Algal, Archaeal, Bacterial, Fungal, and Parasitological Microorganisms from Clinical Specimens for Diagnosis**

Confirmation No.: 9698

Art Unit: 1634

Examiner: Myers, C.

Atty. Docket: 1619.0090000/SRL/KPQ

**Reply to Restriction Requirement**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated **October 1, 2004**, requesting an election of one invention to prosecute in the above-referenced patent application, Applicants hereby provisionally elect to prosecute the invention of Group I, represented by claims 1-3, 6, 7, 12-21, 29, 30, and 44-48. Further, Applicants provisionally elect the sequences of SEQ ID NO. 664 and SEQ ID NO. 697. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

Applicants intend to file an Amendment in the near future to amend the claims to set forth only the elected inventive groups, as the Examiner suggested.

This election is made **with** traverse.

Applicants respectfully request that the claims of Groups I to III be examined together. Applicants respectfully assert that a search of more than one of the sequences as claimed does not impose a serious burden upon the Examiner.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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Date: February 1, 2005

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## Addendum

1. Highly Conserved Genes And Their Use To Generate Species-Specific, Genus-Specific, Family-Specific, Group-Specific And Universal Nucleic Acid Probes And Amplification Primers To Rapidly Detect And Identify Algal, Archaeal, Bacterial, Fungal, And Parasitological Microorganisms From Clinical Specimens For Diagnosis